

Docket No. F-7234

Ser. No. 10/074,137

REMARKS

Claims 1-3, 6, 7, 10, 11, 13-15 and 17-24 are pending and have been rejected under 35 USC § 102(e) as being anticipated by Wells (USPN 6846238). Further, the Examiner asserts that Wells inherently teaches a call to an Internet service provider to enable game play by the game play portion.

Applicant asserts, respectfully, that the Examiner's interpretation of the claims is not correct.

Wells is directed to a portable device 125 on which the user plays a casino game. See, Figs. 1 and 2. Wells further requires that a user provide bills or coins to the game machine to obtain the credits needed to play. See col. 9, ln. 25-50. Alternatively, the mobile game machine can have an interface on which a user enters information such as a credit card number. Yet alternatively, a cashless system server may be used where, for example, the customer uses a kiosk or a cashier to enter cash which provides authorization to play. See. col. 23, ln 63-col. 24, ln. 2.

Wells is entirely inapposite with the invention.

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According to the invention, the user plays the game not on the mobile device but exclusively on the game machine. The mobile device in the present invention disclosed on pgs. 12 and 13 as being used exclusively for identifying the user as a person that is a subscriber whereby the user is billed at a predetermined subsequent time for playing games on the game machine.

Applicant further amends claims 1, 2, 10, 11 and 21-24 to define the invention. As the claims now clearly recite that the "game is played exclusively on said game play portion and not on the mobile communications terminal" and Wells requires the exact opposite operation of this claim limitation, the claims are patentable over Wells and the art. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051 (Fed. Cir. 1987) ("a claim is anticipated only if each and every element as set forth in the claim" is found in the cited prior art reference).

The USPTO is hereby authorized to charge any fee(s) or fee(s) deficiency or credit any excess payment to Deposit Account No. 10-1250.


In light of the foregoing, the application is now believed to be in proper form for allowance of all claims and notice to that effect is earnestly solicited.

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Respectfully submitted,

JORDAN AND HAMBURG LLP

By 
C. Bruce Hamburg
Reg. No. 22,389
Attorney for Applicants

and,

By 
T. David Bomzer
Reg. No. 48,770
Attorney for Applicants

Jordan and Hamburg LLP
122 East 42nd Street
New York, New York 10168
(212) 986-2340